

KITITITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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State Environmental Policy Act MITIGATED DETERMINATION OF NONSIGNIFICANCE

Description

Teaway Solar Reserve LLC has submitted a Conditional Use Permit application and Development Agreement to construct and operate the Teaway Solar Reserve (TSR) project. The TSR project will be constructed on an approximately 982 acre site. Approximately 477 acres of the site will be involved in land disturbance and development. The TSR project will include the following key components: solar modules; field inverters; field transformers; electrical conductors; electrical substation and switchyard; operations and maintenance (O&M) building and supervisory control and data acquisition (SCADA) system; overhead interconnection transmission line; and access and maintenance roads.

The project will be completed over a period of 2 to 3 years, with 7-to 9-month construction periods anticipated each year, weather dependent. The subject property is zoned Forest and Range. The project is proposed to generate up to 75MWdc of PV solar energy for distribution to utilities and communities. See project application materials for full description.

Proponent

Teaway Solar Reserve LLC

Location:

The property site is located approximately 4 miles northeast of Cle Elum, Washington, in Township 20N, Range 16E, within Sections 22, 23, and 27. The site is located on the eastern slopes of the Cascade Mountains on Cle Elum Ridge, which runs generally from east to west at elevations ranging from approximately 2,200 to 2,600 feet. The Teaway River is approximately 1 mile to the northeast of Cle Elum Ridge. The site is accessed from Highway 970 by way of County roads such as Red Bridge Road, and private roads such as Loping Lane. The site is also accessed via Wiehl Road, which is a dedicated public road but is not maintained by the County; it is maintained privately. The property is located in all of Section 22; the North Half of the Northeast Quarter, the Northwest Quarter and the North Half of the Southwest Quarter of Section 23; and Parcel 2 of that certain Survey as recorded May 6, 2003 in Book 28 of Surveys, pages 234, 235 and 236, under Auditor's File No. 200305060025, records of Kittitas County, Washington, being a portion of the Northeast Quarter of Section 27; All in Township 20 North, Range 16 East, W.M., in the County of Kittitas, State of Washington.

Lead Agency:

Kittitas County Community Development Services

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030 (2) (c) and WAC 197-11. This decision was made after review of a expanded SEPA environmental checklist and

other information on file with the lead agency, after considering voluntary mitigation measures which the lead agency or the applicant will implement as part of the proposal, and after considering mitigation measures required by existing laws and regulations that will be implemented by the applicant as part of the Kittitas County permit process. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. This information is available to the public on request.

Based on the project specific analysis, the lead agency for this proposal has also determined that certain mitigation measures are necessary in order to issue a Determination of Non-Significance for this proposal. Failure to comply with the mitigation measures identified hereafter will result in the issuance of a Determination of Significance (DS) for this project. The mitigation measures are listed below. Also note the following:

Notes:

- A. This finding is based on review of the Conditional Use Permit Application Supplement submitted February 2010; an environmental checklist dated February 22, 2010; *Sensitive Species Report (Attachment A)* prepared by CH2MHill dated February 2010; *Wetland Delineation Report (Attachment B)* prepared by CH2MHill dated February 2010; *Cultural Resources Report (Attachment C)* (privileged and confidential: restricted distribution) prepared by CH2MHill dated August 2009; *Geology and Soil Hazards Evaluation(Attachment D)* prepared by CH2MHill dated February 2010; *Fugitive Dust Control Plan (Attachment E)* prepared by CH2MHill dated February 2010; *Hydrologic Analysis (Attachment F)* prepared by CH2MHill dated February 2010; *Vegetation Management Plan (Attachment G)* prepared by CH2MHill dated February 2010; *Wildlife Mitigation Plan (Attachment H)* prepared by CH2MHill dated February 2010 and related *Mitigation Agreement Between WSDFW and TSR*, dated April 18, 2010; *Transportation Road Plan (Attachment I)* prepared by CH2MHill dated February 2010; Figures (**Attachment J**) referenced in the checklist prepared by CH2MHill; Photographs of Solar Equipment (**Attachment K**) supplied by CH2MHill; *Potential Visual Impact Assessment (Attachment L)* prepared by CH2MHill dated February 2010; *Fire Protection Agreement (Attachment M)* dated February 17, 2010; *Economic Impact Analysis (Attachment N)* prepared by CH2MHill dated October 2009; *Public Outreach* efforts by Teanaway Solar Reserve, LLC (**Attachment O**); additional environmental analysis submitted on June 2, 2010 and other documents on file.
- B. Issuance of this threshold determination does not constitute approval of the proposal for construction. This proposal will require review and approval by Kittitas County (Building Permit and associated permits/approvals) and will be reviewed for compliance with all applicable Kittitas County codes which regulate development activities, including but not limited to the Zoning Code, Uniform Fire and Building Codes, Road Standards, Surface Water Design Manual, and the Sensitive Areas Regulations. This proposal will also require approvals by other agencies as described in the SEPA Staff Report. A summary of various approvals and code requirements which the applicant must obtain and/or will implement are described in the SEPA staff analysis report dated July 15, 2010. These approvals and requirements are not inclusive, as some approvals and code requirements can only be confirmed and/or reviewed upon submittal of construction permits.
- C. The applicant shall abide by the SEPA mitigation measures, as stated in the Development Agreement between Kittitas County and Teanaway Solar Reserve, LLC.
- D. Voluntary mitigation measures which the applicant will implement as part of the proposal are listed in the February 22, 2010 environmental checklist and attachments, as supplemented, and are further described in the SEPA staff analysis report dated July 14, 2010. These mitigation measures are in addition to requirements that will be implemented through Kittitas County code compliance permit review. Prior to construction permit issuance, these voluntary mitigation measures will be incorporated as conditions of development.

I. AIR

1. The applicant has submitted a *Fugitive Dust Control Plan* (February 2010), which has been reviewed by the Department of Ecology. The proposed project shall be constructed and operated in accordance with the *Fugitive Dust Control Plan* and other application documents, such as the *Vegetation Management Plan*. In addition, following optional mitigation measures have been suggested by Ecology to further minimize adverse air quality impacts:
 - a. Fully implement the no-burn option described in the *Vegetation Management Plan*, which includes making beneficial use of all organic matter being displaced and ensuring no waste disposal into the atmosphere or breathing air. If burning is to occur, a permit will be required from the Department of Ecology, Central Regional Office – Air Quality.
 - b. Seek and employ the cleanest possible mobile source technology reasonably available especially for construction vehicles, including using low emission vehicles wherever possible, keeping all vehicles tuned-up and running well, using the lowest sulfur fuel available, and eliminating unnecessary idling.
2. The current proposal does not contain assembly or manufacturing components. If at any time the project is changed to include these components, the applicant shall contact the Department of Ecology to discuss emissions and permit requirements. Air quality permits would be required prior to construction, and the Department of Ecology wishes to advise the applicant that sufficient lead time should be considered for any additional review and permit processing.

II. WATER (Surface and Ground)

1. On-site stormwater management that conforms to the specifications of the *2004 Stormwater Management Manual for Eastern Washington* is required of this development. Stormwater systems shall be designed to store stormwater generated by a 24-hour, 25-year storm event. Stormwater system designs shall be prepared and stamped by a civil engineer licensed in the State of Washington. The stormwater system design shall be presented to Public Works and approved by the County Engineer prior to permit issuance. The stormwater system construction shall be certified by a licensed engineer and is required prior to issuance of a building permit. Stormwater plans shall be submitted in accordance with KCC 12.06 and 12.08.

III. PLANTS

1. According to the *Mitigation Agreement Between Washington State Department of Fish and Wildlife and Teanaway Solar Reserve LLC*, TSR shall control the spread of noxious weeds caused by the Project. Prior to construction, TSR shall present a Noxious Weed Control Plan to the Kittitas County Noxious Weed Control Board for review and approval.
2. No later than August 31st, 2010, the applicant shall submit to the County a *Final Draft Tree Planting Plan* based on review comments from the Technical Advisory Committee on the *Draft Tree Planting Plan*. Following the TAC meeting tentatively scheduled for September 2010, at which the *Final Draft Tree Planting Plan* will be discussed, the applicant shall submit the *Final Tree Planting Plan* for review and approval by the County prior to building permit issuance.

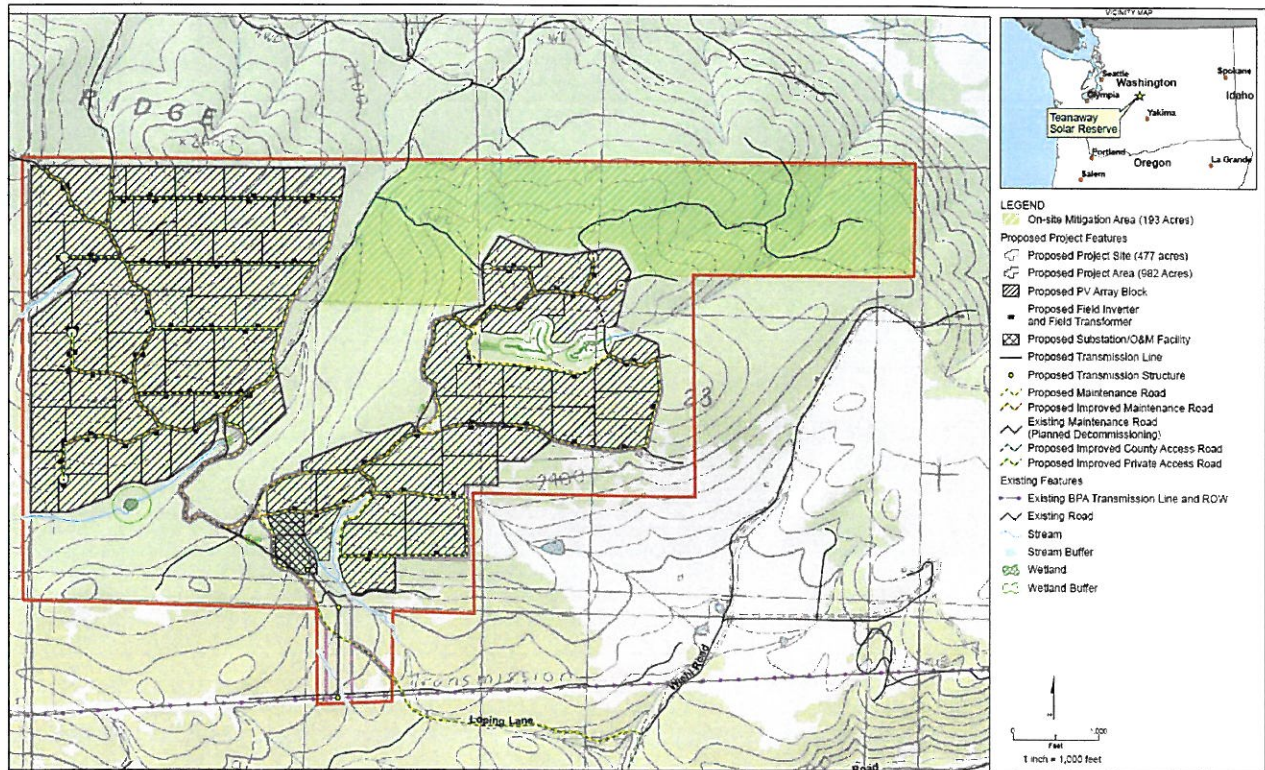
IV. ANIMALS

As a voluntary measure, TSR agreed to develop mitigation under *The Washington Department of Fish and Wildlife Wind Power Guidelines* (April 2009) ("*Wind Power Guidelines*") where feasible even though the Project is a solar facility. The WDFW Mitigation Agreement between TSR and WDFW was also developed pursuant to the *Wind Power Guidelines*. The WDFW Mitigation Agreement and applicant's voluntary mitigation contain the following requirements pertaining to animals:

1. The applicant has conducted sensitive species surveys to identify potential impacts to plants and animals. Pursuant to the *Sensitive Species Surveys for the Teanaway Solar Reserve, Kittitas County, Washington* (February 2010), the applicant shall implement Best Management Practices wherever surface disturbance occurs during construction to avoid and reduce temporary and permanent impacts to wildlife to the extent practicable. In the event that a state or federally listed threatened or endangered wildlife species is observed during project development, work will be halted immediately and a qualified biologist notified.

On-Site Mitigation (Animals)

2. TSR will permanently impact 477 acres of Class II habitat, requiring a mitigation value of 2:1, or 954 acres, under *The Washington Department of Fish and Wildlife Wind Power Guidelines* (April 2009) ("*Wind Power Guidelines*"). To satisfy this mitigation in part, TSR will protect and preserve from further development, for the life of the project, a Category II area on-site of approximately 193 acres of similar elk habitat within the proposed Project Area identified as "Mitigation Area" below and in Figure 3 of the *Teanaway Solar Reserve Wildlife Mitigation Plan, Kittitas County, Washington* (February 2010).



The amount of on-site replacement habitat (193 acres) may be increased as a result of a pre-construction on-site habitat analysis jointly conducted by WDFW and the TSR qualified biologist. The 193 acre on-site mitigation and any additional acreage approved for on-site mitigation shall be preserved and protected

through a conservation easement with a non-governmental organization from further development for as long as a solar energy project remains within the project area, regardless of who holds the lease or owns the property. The conservation easement must be in a form approved by WDFW and must be completed and recorded before construction begins on the Project. If TSR is unsuccessful in recording the conservation easement for the on-site mitigation, TSR will either contribute money to a mutually acceptable third party that owns or will purchase mitigation habitat or pay WDFW a fee as provided for in “Off-Site Mitigation” below.

3. Several existing roads located within the northeast parcel which are not used to access WDNR property, will be restricted for general use to minimize human impacts on elk.
4. To reduce impacts to elk, visual barriers will be created and reasonably maintained between (1) the array fields and Mitigation Area, and (2) along the corridor between the arrays. These barriers will consist of local native coniferous trees (ponderosa pine and Douglas fir) placed and maintained in such proximity and density to provide a visual screen approximately 8' or greater in height within 6-8 years after planting. It must be noted that this is a vegetation requirement independent of tree stocking criteria required by the Washington Department of Natural Resources, and that soils, weather, elevation, drainage, planting density, nutrients, fire, wind and other factors heavily influence the rate of growth and mortality of trees and other vegetation. Accordingly, TSR cannot guarantee that any vegetation barrier will block all views of the Project at any particular location or time. WDFW does not oppose any trees used for the visual barriers counting towards fulfillment of TSR's 3:1 tree replacement mitigation for the CUP. The Technical Advisory Committee shall guide in the location and placement of the trees, provided that creation of the visual barriers cited above shall be the first priority of the tree replacement program.
5. TSR shall design and engineer the Project to avoid and/or minimize impacts on elk and elk habitat. The Project already includes, or shall include, the following design features and commitments:
 - a. The Project footprint is designed to avoid, or minimize impacts on, possible migration routes previously identified by landowners and densely forested winter habitat along the Teanaway River corridor.
 - b. No Project facilities will be placed within any riparian corridor, wetland, or stream. Stream buffers will be flagged and clearly marked to prevent inadvertent clearing by construction crews.
 - c. Artificial lighting will be directed on Project facilities to avoid light disturbance to surrounding wildlife mitigation areas and potential wildlife corridors.
 - d. Electrical conductors from the array field to the inverters will be supported above-ground within the solar module framework and installed per National Electrical Code standards. Collector lines between field transformers and the substation will be below grade.
 - e. Overall site selection is designed to avoid all areas with documented endangered, threatened species.
 - f. No fencing will be erected along the boundary of the Project Area to help maintain access for large mammals and minimize disruption of movement or migration of wildlife.
 - g. TSR will not place a planned solar panel between the two major solar array fields in the southwest portion of the Project Area to provide opportunity for wildlife movement between the two major arrays. Vegetation within the corridor will not be altered.
 - h. During the initial timber clearing process, TSR will temporarily stockpile (up to one year), load and haul up to 100 trees greater than 14" dbh cut from the project site for use by WDFW or third party in stream projects within the upper Yakima River Basin. The trees will remain in lengths of 40-45 feet wherever possible. WDFW or third party will be responsible for identifying a location for TSR to haul and deposit the trees, and shall provide TSR notice requesting the trees within the one year stockpiling period.
 - i. TSR shall install filter bags, weed free mulches, sediment fences, sediment filter fabric traps, and graveled construction accesses as necessary for erosion control. The primary means of erosion

control will involve methods that preclude initial mobilization of fines and sediment rather than attempting to catch or trap it after mobilization. Straw mulches and similar mechanisms will be used to prevent erosion and mobilization of sediment contaminated runoff.

- j. TSR shall ensure that the hydrology of the seasonal streams on-site is not altered.
- k. TSR shall reseed areas temporarily affected by construction activities using seed sources of native biotypes. Where installed, erosion control mulches, sediment fences and check dams will remain in place until the affected areas are well vegetated and the risk of erosion has been eliminated.
- l. During project construction, vehicle servicing and refueling will occur in a temporary staging area equipped for fuel or oil spills.
- m. Onsite vehicles used during construction, operation, maintenance, and decommissioning will be monitored for petroleum leaks.
- n. Spills will be cleaned up immediately upon discovery and reported to the appropriate agency. Equipment found to be visibly leaking petroleum products will not be used at the project site until repaired.
- o. Any hazardous waste material generated by project construction or operation will be disposed of in a manner specified by local and state regulations or if there are no applicable regulations, according to the manufacturer's recommendations.
- p. Cleanup materials will be kept readily available onsite, either at the equipment storage area, O&M building or on the construction contractor's trucks.
- q. Speed limits on access roads will be set at 20 m.p.h. in order to minimize vehicle strikes on wildlife.
- r. The Project site will be restored to approximate or improved pre-project conditions as provided in TSR's Development Agreement. Surrounding lands with similar habitat will be used as reference sites to guide restoration. The project site will be revegetated with plant species and densities representative of undisturbed areas adjacent to the site.

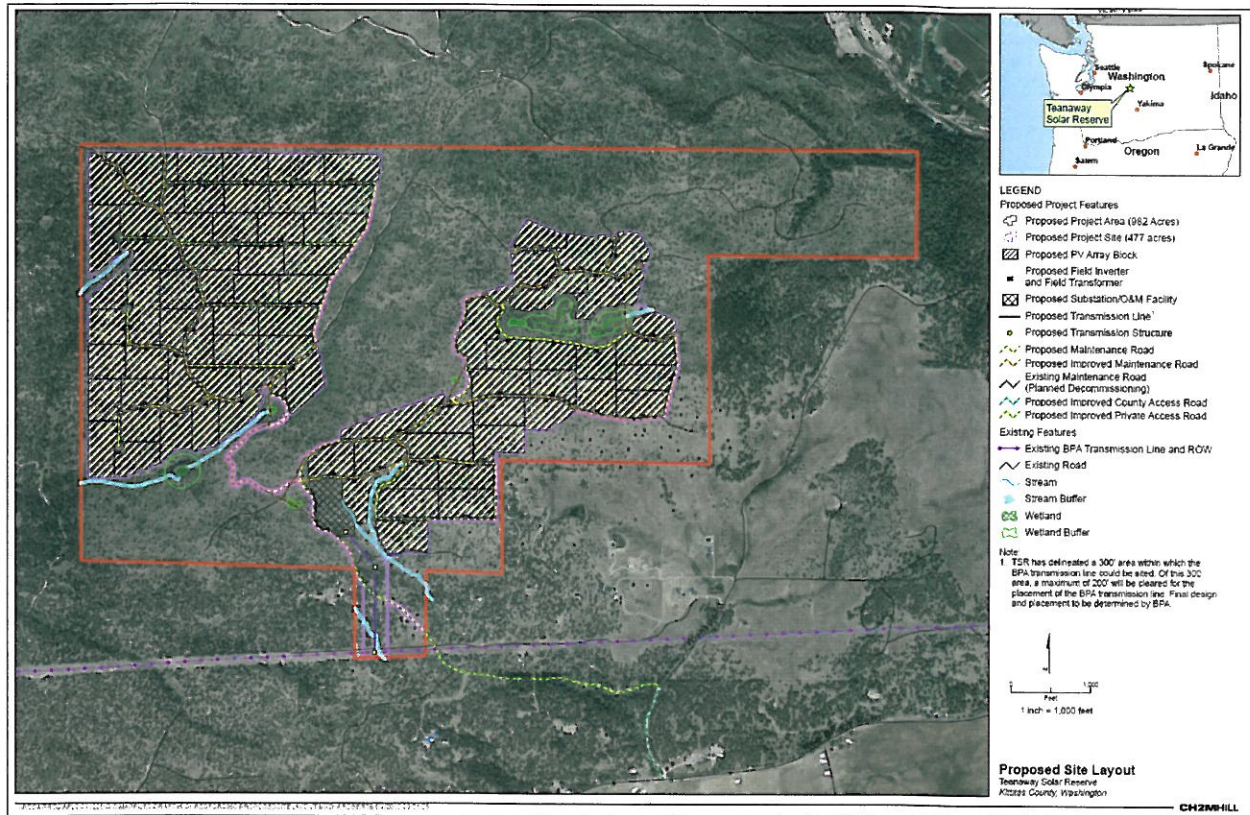
Off-Site Mitigation (Animals)

- 6. The *Wind Power Guidelines* suggest two fundamental mitigation approaches for mitigating permanent impacts to habitats by wind energy projects: Mitigation "fee" and, secondarily, acquisition of replacement habitats. The Project will permanently impact 477 acres of Class II habitat, requiring a mitigation value of 2:1, or 954 acres, under the *Wind Power Guidelines*. As provided above, a maximum of approximately 193 acres of the remaining 505 undeveloped acres within the Project Area will be considered mitigation habitat; *provided* that the amount of on-site replacement habitat (193 acres) may be increased as a result of a pre-construction on-site habitat analysis jointly conducted by WDFW and a TSR qualified biologist, and provided that this mitigation habitat is not altered or developed, and is managed exclusively for fish and wildlife benefit as long as any form of type of solar energy project remains on the 477 acres referenced above. Moreover, this 193 acre on-site mitigation and any additional acreage set aside for on-site mitigation must be secured by a conservation easement as provided for above (On-Site Mitigation). In accordance with the *Guidelines*, TSR will provide off-site mitigation for the number of remaining acres necessary to satisfy its 2:1 habitat mitigation (Mitigation Obligation) through fee or habitat acquisition.
- 7. Consistent with the *Wind Power Guidelines*, TSR may satisfy its remaining Mitigation Obligation either by purchasing mutually acceptable mitigation habitat and deeding it to WDFW or a mutually acceptable third party, contributing money to a mutually acceptable third-party that owns or will purchase mitigation habitat, or by paying to WDFW a fee of one-thousand four hundred fifty dollars (\$1450.00) per acre plus \$30,000.00 or the actual funds necessary, for appraisal costs, a hazardous waste assessment, closing costs, and transaction time invested by WDFW real estate staff. WDFW and TSR agree in utilizing any of the proceeding approaches for TSR to satisfy habitat permanently impacted by the Project shall be a priority. The mitigation proposed by TSR will be subject to WDFW's final approval and such approval will not be unreasonable withheld. If TSR has not satisfied its mitigation obligation prior to commencing construction, TSR will

provide a letter of credit, bond, or other financial security to WDFW in an amount and form sufficient to provide for its Mitigation Obligation prior to commencing operation of the Project.

V. LAND USE

1. The width and location of the transmission corridor, the location of the substation facility, and the southeasterly edge of the southern solar module field shall be located no closer to residences than shown on the proposed site layout below.



2. The northern solar module field shall be setback at least 100 feet from adjacent properties zoned Commercial Forest.

VI. AESTHETICS

1. Consistent with the *Tree Planting Plan*, new trees will be planted at visually strategic locations around the perimeter of the site that could provide visual screening to power lines, sub-stations, and other project components, and to screen views or help “soften” views of the project.

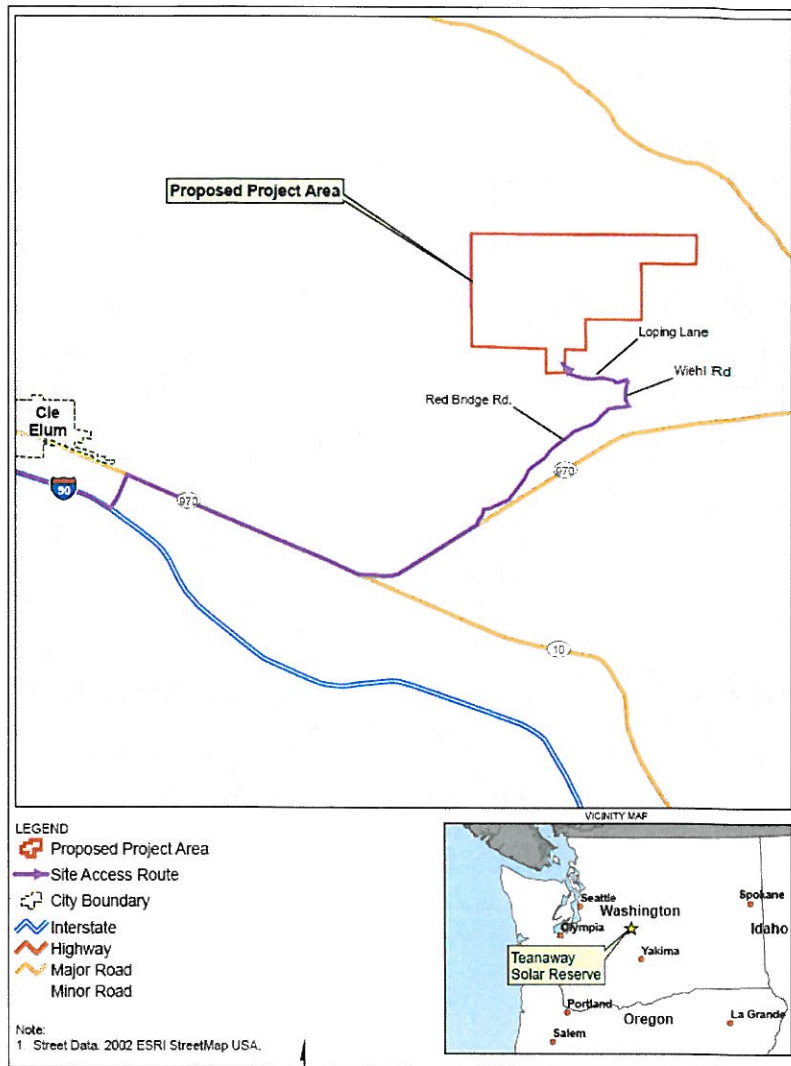
VII. HISTORIC AND CULTURAL PRESERVATION

1. The project shall be constructed and operated pursuant to the August 2009 *Cultural Resources Report*, referenced in the expanded SEPA Checklist.

VIII. TRANSPORTATION

Construction Mitigation (Excluding Site Preparation—SEPA Checklist page 10-11)

1. Construction traffic shall access Red Bridge Road from the southwest entrance, directly from SR 970. If road closures along this access route occur, Public Works shall be consulted to establish a temporary detour route.
2. The applicant shall prepare a *Traffic Management Plan* with the construction contractor outlining steps for minimizing construction traffic impacts. The *Traffic Management Plan* shall be submitted to the Department of Public Works and WSDOT for review and approval prior to construction.
3. The applicant shall prepare a Construction Road Signage Plan for Red Bridge Road and Wiehl Road that conforms to the most recent edition of the Manual on Uniform Traffic Control Devices. The Construction Road Signage Plan shall be submitted to the Department of Public Works prior to construction for review and approval.
4. The applicant shall assist in minimizing access disruptions to residents along roadways impacted by construction activities. Five days prior to the commencement of road construction, the applicant shall provide notice by mail of upcoming construction activities to landowners gaining access from the portion of the "Site Access Route" extending from the intersection of Red Bridge Road and Highway 970 northeastward to the intersection of Loping Land and the TSR onsite access point, as depicted below on the next page.



5. When hauling slow or oversized wide loads, appropriate vehicle and roadside signing and warning devices shall be deployed per the Traffic Management Plan. Pilot cars shall be used as WSDOT dictates, depending on load size and weight. WSDOT requirements shall also apply to county roads.
6. The applicant shall encourage carpooling for the construction workforce to reduce traffic volume.
7. The applicant shall provide Detour and Warning Sign Plans to the Department of Public Works in advance of any traffic disturbances. When temporary road closures cannot be avoided the applicant shall post "To Be Closed" signs and place a legal notice in the newspaper a minimum of five working days prior to the closing. The types and locations of the signs shall be shown on a detour plan. A Detour Plan must be submitted to the Department of Public Works at least ten working days prior to the proposed closure. No County roadway shall be closed until after the Detour Plan has received approval from the Department of Public Works. In addition, at least five working days prior to the closing the contractor must provide written notification to local fire, school, law enforcement authorities, postal service and any other affected persons as directed by the Department of Public Works.
8. The applicant shall maintain one travel lane at all times when construction occurs on Loping Lane or Wiehl Road. A flagger shall be employed at all times when only one travel lane is open.

9. The applicant shall employ flaggers as necessary to direct traffic when large equipment is exiting or entering public roads to minimize risk of accidents.
10. The applicant shall provide a roadway pavement analysis and visually inspect the condition of pavement and the quantity and severity of pavement distresses utilizing a county approved rating system and a video, prior to and immediately after each phase of construction, including substation construction. The analysis shall document roadway and shoulder conditions before and after construction and shall include Red Bridge Road east of Wiehl Road. The applicant shall be responsible for restorative work made necessary by the project.
11. Loping Lane and Wiehl Road shall be constructed to meet the minimum requirements of the IFC as adopted by the County, prior to receiving building permit approval.

Project Mitigation

12. Loping Lane and Wiehl Road shall be constructed and/or repaired as required below. Prior to receiving permit approval, a bond shall be submitted which covers 135% of the engineer's estimate of the full costs of road construction requirements and repairs and follows all requirements of KCC 12.01.150.
 - a. After construction is completed, Loping Lane shall be constructed and/or repaired to comply with International Fire Code standards. The road must be certified by a civil engineer licensed in the state of Washington prior to release of the bond.
 - b. Wiehl Road must be constructed to 24-foot total paved width, or as approved by the County Engineer from the intersection at Red Bridge Road to the intersection with Loping Lane. All road designs shall be engineered as specified by AASHTO A Policy on Geometric Design of Highways and Streets, 5th edition (2004). Engineering justification shall be included with the design for proposed total pavement width less than 24 feet. The road must be certified by a civil engineer licensed in the state of Washington prior to release of the bond.
13. Within the project boundaries, the primary access roads shall be constructed with an all-weather surface and be a minimum of 20 feet in width. Secondary roads shall be a minimum of 16-foot wide. A turnout shall be provided every 1000 feet, or if the segment of road is less than 2000-feet long, the turnout shall be located in the middle of that segment. Each turnout shall provide at least 5 feet of additional driving surface for a length of 50 feet. All changes to the road layout must be approved by County staff.
14. The turning radius at all corners shall be a minimum of 28 feet. Cul-de-sacs shall have a minimum driving surface radius of 50 feet.
15. Primary access roads throughout the site shall be kept clear of snow for emergency access.

IX. PUBLIC SERVICES

1. A 50' cleared area shall be maintained around the solar module fields, with an additional 50' of area with reduced natural vegetation. Trees greater than 4" in diameter are to be limbed up, ladder fuels are to be removed, dead fall is to be removed, etc.
2. Emergency fire, supportive medical, and other standard emergency response services shall be provided to the Teanaway Solar Reserve by Fire District 7, according to the Fire Protection Agreement (Teanaway Solar

Reserve) dated April 17th, 2010. Any future amendments to this agreement shall be reviewed by the Fire Marshal's Office prior to adoption.

3. Pursuant to the Fire Protection Agreement, the applicant will seek annexation of the Teanaway Solar Reserve property into Fire District 7 following permit approvals. The applicant shall provide a copy of the petition for Annexation of the Property to the District No. 7, and any other subsequent proceedings regarding the annexation process.

Responsible Official: 
Dan Valoff

Title: Staff Planner

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Phone: (509) 962-7506 Fax: (509) 962-7682

Date: July 15, 2010

This Mitigated DNS is issued under WAC 197-11-355, WAC 197-11-390 and Kittitas County Code (KCC) Chapter 15.04; the lead agency will not act on this proposal for 10 working days. Any action to set aside, enjoin, review, or otherwise challenge this administrative SEPA action's procedural compliance with the provisions of Chapter 197-11 WAC shall be commenced on or before 5:00 pm, July 29, 2010.

Pursuant to Chapter 15A.04.020 KCC, this MDNS may be appealed by submitting specific factual objections in writing with a fee of \$500.00 to the Kittitas County Board of Commissioners, Kittitas County Courthouse Room 110, Ellensburg, WA 98926. Timely appeals must be received within 10 working days, or no later than 5:00 PM, July 29, 2010. Aggrieved parties are encouraged to contact the Board at (509) 962-7508 for more information on appeal process.